

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al.,	)	
Plaintiffs,	)	Case No. 04-CV-2688
	)	(Hon. Judge Jones)
v.	)	
	)	(Filed Electronically)
DOVER AREA SCHOOL DISTRICT and	)	
DOVER AREA SCHOOL DISTRICT	)	
BOARD OF DIRECTORS,	)	
Defendants.	)	
	)	

**DEFENDANTS' MOTION IN LIMINE  
TO PRECLUDE PLAINTIFFS FROM USING OR INTRODUCING  
AT TRIAL EVIDENCE RELATED TO DISCOVERY INSTITUTE,  
FOUNDATION FOR THOUGHT AND ETHICS, JON BUELL,  
CHARLES THAXTON, PHILLIP JOHNSON,  
PERCIVAL DAVIS, AND DEAN KENYON**

Defendants move this court for an order prohibiting plaintiffs from using or introducing at trial any evidence relating to the Discovery Institute, including its so-called “Wedge Document” and “Wedge Strategy,” the Foundation for Thought and Ethics, including drafts and versions of *Of Pandas and People*, Jon Buell, Charles Thaxton, Phillip Johnson, Percival Davis, and Dean Kenyon.

1. The evidence relating to the Discovery Institute, the Foundation for Thought and Ethics, Jon Buell, Charles Thaxton, Phillip Johnson, Percival Davis, and Dean Kenyon is irrelevant, hearsay, and even if relevant, is more prejudicial

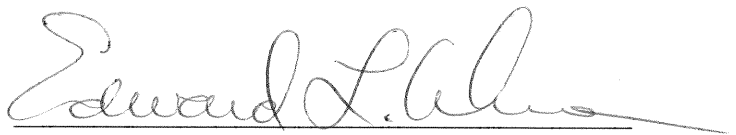
than probative. Consequently, the evidence is inadmissible. *E.g.*, Fed. R. Evid. 402, 403, 801, 802.

2. In support of this motion, defendants rely on their brief and exhibits, which have been filed with this motion, and the papers contained in the court file.

3. Counsel for defendants and plaintiffs were unable to reach a resolution of this motion as of the date of its filing. M.D. Pa. Local R. 7.1. A proposed order has been submitted with this motion. *Id.*

Defendants respectfully request that this court grant them the relief sought through this motion and supporting brief.

Respectfully submitted,



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Dated: September 6, 2005

### CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2005, a copy of the foregoing defendants' motion in limine and proposed order was served on the following counsel through the court's electronic case filing system:

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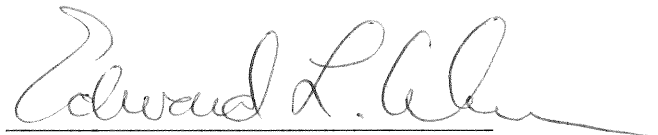
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A handwritten signature in cursive script, reading "Edward L. White III", written in black ink over a horizontal line.

Edward L. White III  
Admitted *pro hac vice*